

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 2**

THE MOUNT SINAI HOSPITAL

Employer

- and -

Case No. 2-RC-22844

**NEW YORK STATE NURSES
ASSOCIATION**

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition filed under Section 9(b) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board. Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, the Board has delegated its authority in this proceeding to the Regional Director, Region 2.

In its petition, the New York State Nurses Association, herein Petitioner, seeks to represent a unit of all case managers. Petitioner contends that this unit is a residual unit of the unit of registered nurses that it represents at The Mount Sinai Hospital, herein the Employer. The Employer contends that the case managers are all supervisors or managers and thus the petition should be dismissed.

Upon the entire record in this proceeding,¹ it is found that:

1. The Hearing Officer's rulings are free from prejudicial error and hereby are affirmed.

2. The parties stipulated and I find that the Employer, a New York not-for-profit corporation, with its principal place of business located at One Gustav Levy Place, New York, New York, is engaged in the provision of acute care patient services. Annually, in the course and conduct of its business operations, Employer Mount Sinai derives gross revenues in excess of \$250,000, and purchases goods and services valued in excess of \$50,000 directly from suppliers located outside the State of New York.

Accordingly, I find that Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

3. The parties stipulated and I find that the New York State Nurses Association is a labor organization within the meaning of Section 2(5) of the Act.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Sections 9(c)(1) and 2(6) and (7) of the Act.

5. The Petitioner seeks to represent a unit of all case managers employed by the Employer. Petitioner asserts that these employees all are required to hold an RN license. As such, Petitioner asserts that this unit of

¹ The briefs filed by the parties have been carefully considered.

registered nurses should be permitted to vote as to whether they wish to be included in the RN unit it already represents. The Employer, on the contrary, asserts that the case managers should not be included with the bargaining unit nurses represented by Petitioner because they are supervisory employees, and/or managerial employees, and do not share a community of interest with the bargaining unit employees.

FACTS

Employer's overall operations

The Employer operates a large acute care hospital in Manhattan. It has approximately 850 patients at any given time and discharges about 130 patients each day. Dr. Deborah Marin is the Executive Vice President for Strategic Development and Chief Medical Officer. She also serves as the Dean for Clinical Research at the Mount Sinai School of Medicine. The hospital serves a patient population that includes a very substantial number of patients who are very ill. The Employer receives payment for the services it renders to its patients based upon a number of factors. Dr. Marin explained that as a general rule, it costs the Employer more in revenue lost the longer a patient remains admitted to the hospital. This occurs because insurance carriers and other third party payers, including the government, only pay for the time a patient actually needs hospitalization, based upon standards that have evolved depending on the type of illness that the patient has. Thus, any unnecessary testing, or if the doctor permits a patient to remain in the hospital longer than is medically necessary,

causes a loss of payments to the Employer. Dr. Marin, among her many responsibilities, is responsible for overseeing the length of time patients stay in the hospital and to ensure that patients receive the appropriate and necessary medical care while admitted to the hospital for the appropriate amount of time in order to maximize reimbursement. To assist her in this responsibility, Dr. Marin utilizes the professional services of 27 case managers who work under her direction as well as the supervision of Rachelle Schwartz, Director of Case Management. The case managers review and monitor patient charts and interact with doctors concerning the length of the patients' stay in the hospital. These case managers are the employees who are the subject of this petition.

Employer's overall structure

The Chief Executive Officer of the Employer is Dr. Kenneth Davis and the President is Dr. Burton Drayer. The four executive vice presidents, including Dr. Marin, report directly to Dr. Davis. Dr. Marin, however, also reports directly to Dr. Burton as well, and she is the number three executive within the hospital structure. In the Employer's structure, there are also senior vice presidents and vice presidents, as well as department chairs and division chiefs in the clinical care area and supervisors within the administrative areas. The clinical nurse manager who reports to the Sr. Vice President for Nursing, is in charge of all nurses and business associates (or subordinate staff).

Among the classifications of employees employed at the hospital are registered nurses. These employees are represented by the Petitioner and are

covered by the terms of a collective-bargaining agreement, which by its terms is effective from January 1, 2002 through January 1, 2005.

Case Manager's duties

The 27 case managers employed by the Employer work under the direction of both Dr. Marin and Rachelle Schwartz, the director of case management. They are interviewed and hired by Ms. Schwartz and they are expected to have previous experience as a case manager, although several of the current case managers were previously employed by the Employer and were members of the RN bargaining unit. Dr. Marin estimated that case managers are paid approximately 10 to 15% more than bargaining unit nurses, but the Petitioner states that the base salary for this position is \$61,821, while the RN's receive salaries within a range of \$58,096 to 75,778. After a case manager has been hired, they are employed subject to a three-month probationary period. During this period, a newly hired case manager will be rotated through the various departments. During that period they receive training for short periods of time from experienced case managers. During the period they work with the probationary case manager, case managers fill out a portion of the probationary review by checking off whether the new employee accomplished the tasks that were given to him or her. It appears that a case manager who has worked with a probationary employee for a period of short duration may recommend that the probation be extended. However, this has not occurred and the record fails to establish whether these recommendations are effective. The form used for this review is entitled "Case Manager – Competency Statement". It lists the tasks and

has columns for the date it was performed and the reviewer's initials. There is also a comment section for each task. There is no place for recommendations and the only recommendation that a case manager has made was that the employee should be spoken to. Final decisions on whether an employee has passed probation are made by Ms. Schwartz and Lynn Hellaire. While the Employer states that case managers have the authority to recommend discipline of other employees, Dr. Marin admitted that the Employer had not yet implemented this as well as it should.

Each case manager is assigned to patients who are either in the general medicine area or in the surgical unit. A case manager in general medicine handles approximately 25 patients. A case manager with patients in the surgical unit handles a caseload of 35 patients. Each case manager is assigned an office and they are located throughout the hospital facility. They work the hours necessary to suit the needs of the unit and they focus their attention on those patient cases that in their professional judgment require attention so that the Employer meets the criteria for payment by the managed care company.

According to the job description for case managers, they are responsible for reviewing the charts of newly admitted patients in order to determine whether these patients should be in the hospital and, if so, they monitor the patients' progress to determine whether the continued stay is appropriate. In doing so, they work with the patient's physician who is not familiar with reimbursement formulas. The relationship between the case manager and physician appears to have had a beneficial impact by reducing the length of stay of patients. In one

case a nurse manager was assigned to work closely with a physician and his patient's length of stay was dramatically reduced. In a cardiac case, a case manager informed Dr. Marin that she believed the tests ordered by the doctor were unnecessary and could be done on an outpatient basis. Dr. Marin told the case manager to speak with the doctor and after they discussed the matter, he agreed to release the patient. Upon the cessation of this association, the length of stay went back up. In those cases where the case manager feels the doctor may have ordered unnecessary tests or perhaps that further treatment could be administered on an outpatient basis, he or she will initiate a discussion with the physician. Where there is disagreement between the physician and case manager, the case manager reports the situation to Dr. Marin, who will discuss the case with the physician. However, even Dr. Marin does not have the authority to overrule the physician's judgment, as the ultimate decision regarding a patient's care remains within the exclusive control of the physician. Dr. Marin can take appropriate steps regarding the physician, including taking away his admitting privileges, or she can refer the matter for review by the risk management committee.

The job description for the case manager position requires knowledge of diagnostic related group ("DRGs") and ICD 9 coding and healthcare reimbursement, a current NYS nursing license, and a bachelor's degree in nursing, although a master's degree is preferable. In addition, they need to be familiar with the national guidelines set forth in the published InterQual Guidelines that set forth the standards to be used depending upon the patient's

illness and its severity. They also require previous experience as a utilization review nurse, discharge planner or 3-5 years experience as an RN in an acute care setting preferably in an appropriate area of specialty or equivalent experience as deemed appropriate by the Director. They must have the ability to work independently and collaboratively with the interdisciplinary team, patient/family, and others as appropriate and necessary.

Case managers take part of the interdisciplinary rounds during which individuals from varied disciplines, such as nutrition, social work, physical therapy, and nursing, circulate through the hospital and see patients in order to familiarize themselves with the patients' conditions. This permits the development of a treatment plan for each patient. RN's are part of this process as well.

Case managers have participated in the Employer's efforts to establish its own system for determining the appropriate length of time a patient should remain in the hospital for each type of patient. This involves the development of a plan called a clinical or critical pathway. A case manager is a member of the team that is studying the cardio thoracic surgery department in order to develop a pathway for this department. A case manager was involved in this process for the Emergency Room as well. In this regard, case managers recommended that the Employer establish a chest pain unit in the ER to eliminate a patient being admitted to the hospital if it later became apparent the admission was not necessary.

Dr. Marin and/or Ms. Schwartz conduct a weekly meeting with the case managers during lunch, which is aptly called the brown bag meeting. These meetings are conducted in order to facilitate the flow of information from management to the case managers.

Case managers have frequent contact with third party payers in order to provide the insurance companies with clinical information needed to determine the level of reimbursement that the Employer will receive. Reimbursement is determined by the Hospital's contract with the insurance carrier. These contracts are negotiated by the Employer's contracting department and not by case managers. Case managers have the telephone numbers of the insurance carriers' chief medical officers and they attempt to work out any disputes regarding the reimbursement that the carrier is willing to pay. They determine whether to involve any of the Employer's physicians in this process.

Case managers will intercede in situations where a consult from another hospital department, such as physical therapy, is taking longer than is necessary and they take action to insure timeliness so that the hospital stay is not unduly and unnecessarily prolonged.

POSITIONS OF THE PARTIES

The Employer contends that the case managers are all supervisors or managers and thus the petition should be dismissed. The Petitioner asserts that case managers are required to have a registered nurses' license and as such are a classification of nurses who should be able to vote on whether they desire to be included in the nurses unit that it represents.

ANALYSIS AND DISCUSSION

Managerial Status of the Case Managers

Managerial employees, who are excluded from the protection of the Act, are defined as employees who have authority to formulate, determine, or effectuate employer policies by expressing and making operative the decisions of their employer and those who have discretion in the performance of their jobs independent of their employer's established policies. *Tops Club, Inc.*, 238 NLRB 929 fn. 2 (1978). In *NLRB v. Yeshiva University*, 444 U.S. 672 (1980), the Supreme Court described managerial employees:

Managerial employees are defined as those who "formulate and effectuate management policies by expressing and making operative the decisions of their employer." These employees are "much higher in the managerial structure" than those explicitly mentioned by Congress which "regarded [them] as so clearly outside the Act that no specific exclusionary provision was found necessary." Managerial employees must exercise discretion within, or even independently of, established employer policy and must be aligned with management. Although the Board has established no firm criteria for determining when an employee is so aligned, normally an employee may be excluded as managerial only if he represents management interests by taking or recommending discretionary actions that effectively control or implement employer policy.

Id. at 682-683.

It is well settled that the party seeking to exclude either a whole class of employees or particular individuals as managerial has the burden of presenting the evidence necessary to establish such exclusion. *Montefiore Hospital & Medical Center*, 261 NLRB 569, fn. 17 (1982); *University of Great Falls*, 325 NLRB No. 3 (1997).

In the instant case, the Employer contends that case managers are managerial employees because they “manage both the hospital’s investment in resources in a patient’s care and the complex and often adversarial process by which the Hospital obtains payment for that care.” In support of its argument, the Employer relies upon a decision of an Administrative Law Judge in *Southern Monterey County Hospital*, Case No. 32-CA-17687 (2001). In that case, the ALJ found that a utilization review nurse was a managerial employee because she “effectuates the fundamental policy of the hospital of maximizing reimbursement for patient care. Such reimbursement is an economic necessity.” The ALJ also found that this individual recommended “actions which implement employer policy”. The Employer describes the case managers role as being similarly “intimately intertwined with the Hospital’s goal of conserving hospital resources and maximizing its reimbursement to enhance its financial viability while ensuring that patient care is not compromised.”

I cannot agree with the Employer’s contention in this regard. The record clearly establishes that the case manager’s are professional employees with knowledge of both the nursing profession and reimbursement by insurance carriers and other third parties. While these employees are utilized by the Employer to effectuate the Employer’s fundamental policy of maximizing reimbursement for patient care, and recommend those actions which implement that policy, they are not acting as managers in doing so. Case managers do exercise of independent professional judgment in selecting cases for review, reviewing the appropriateness of care, unilaterally determining whether such care

was rendered, and determining how to deal with third parties, but they are not independently formulating or effectuating basic managerial policy.

The Employer also argues that case manager's have the authority to overrule doctor's decisions with respect to the appropriateness of tests ordered by doctor's and the necessity for further hospitalization. The evidence does not support such a conclusion. Dr. Marin made it clear that not even she could overrule a doctor's care for his or her patient. The record establishes clearly that the Employer utilizes the case managers as a resource for the doctor who is unaware of, and perhaps more concerned with his patient's care than the intricacies of reimbursement. Other than the conclusory statements to the effect that case managers direct physicians, the record fails to contain any evidence that case managers have oversight functions with respect to the clinical decisions made in furtherance of patient treatment or quality of care.

In *Sutter Community Hospitals of Sacramento*, 227 NLRB 181 (1976), the Board found patient care coordinators not to be managerial personnel. Those individuals worked "independently, without close supervision" within the framework of the Employer's established health care policies. This work involved evaluating hospital care in accordance with patient needs, planning continuing care for patients about to be discharged, conferring with patients, their families and other health care facilities to assure the delivery of required health care in accordance with physician's orders. The Board found that the patient care coordinators did not formulate and effectuate management policy. Nor did they exercise the sort of discretion in the performance of their work, which was

independent of the Employer's policy. Rather, the Board found that the patient care coordinators worked within the framework of existing management policy in accomplishing their professional tasks and accordingly were not managerial personnel. *Supra* at 193-194.

While here, case managers may direct their efforts toward improving the hospital's financial condition, the evidence fails to establish that case managers formulate and effectuate management policies by taking or recommending discretionary actions that effectively control or implement employer policy. Based upon the foregoing, I find that the Employer has failed to meet its burden of establishing that the case managers are managerial personnel.

Supervisory Status of the Case Managers

The Employer contends that case managers are supervisors and therefore the petition must be dismissed. For the reasons set forth below, I find that the Employer has not satisfied its burden of establishing that case managers are statutory supervisors.

Section 2(11) of the Act defines a supervisor as:

any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively recommend such action, if in connection with the foregoing the exercise of such authority is not merely routine or clerical in nature, but requires the use of independent judgment.

It is well established that section 2(11) of the Act must be read in the disjunctive, and that an individual therefore need possess only one of the

enumerated indicia for there to be a finding that such status exists. *Concourse Village, Inc.*, 276 NLRB 12 (1985).

The burden of proving that an employee is a statutory supervisor is on the party alleging such status. *NLRB v. Kentucky River Community Care*, 121 S. Ct. 1861, 1866-1867 (2001); *Benchmark Mechanical Contractors, Inc.*, 327 NLRB 829 (1999); *Alois Box Co., Inc.*, 326 NLRB 1177 (1998). Lack of evidence is construed against the party asserting such status. Thus, “whenever the evidence is in conflict or otherwise inconclusive on particular indicia of supervisory authority, we will find that supervisory status has not been established, at least on the basis of those indicia.” *Phelps Community Medical Center*, 295 NLRB 486, 490 (1989). Further, the Board has cautioned that in construing the supervisory exemption, it should refrain from construing supervisory status “too broadly” because the inevitable consequence of such a construction is to remove the individual from the protections of the Act. *Northcrest Nursing Home*, 313 NLRB 491 (1993); *Phelps Community Medical Center*, *supra*.

Applying the foregoing standards to the facts of this case, I find insufficient support in the record to conclude that the case managers possess any of the statutory authority set forth in Section 2(11) of the Act.

With respect to the above-noted statutory criteria, the Employer failed to present evidence to establish that case managers have the authority to hire, transfer, suspend, lay off, recall, promote, discharge, or reward employees, or to adjust employee grievances, or to effectively recommend such actions. Rather, the Employer generally relies upon purported authority to direct and recommend

discipline of physicians who fail to agree with the case managers' assessment of the proper and most cost effective treatment for the physician's patient and the probationary review done by case managers on probationary case managers. None of the examples described by the Employer establishes that case managers can direct or discipline physicians or any other employee.

As to discussions with physicians, the record does not contain a single example where a case manager issued a direct order to a physician or any other employee. The dialogues between doctor and case manager were described in very general terms. It appears that case managers attempt assist the doctor to understand the financial ramifications of the doctor's orders regarding his or her patient. With respect to discipline, to the extent the record was developed in this regard, in those situations where the doctor was left unpersuaded by the case managers suggestions, the matter was referred to Dr. Marin. It must be noted that Dr. Marin acknowledged that even she is without authority to countermand a doctor's prescribed course of treatment for his or her patient. However, Dr. Marin does have the authority to deal with issues such as the doctor's continued admitting privileges, but the record fails to indicate whether the case managers make effective recommendations to Dr. Marin regarding any prospective action she may take in such a situation. The mere reporting of an employee's unwillingness to cooperate with the Employer's policy with regard to length of stay to a manager is an insufficient basis to find supervisory authority. The Board has held that merely reporting on an employees' conduct, without any effective

recommendations, does not amount to the exercise of supervisory authority. *Williamette Industries*, 336 NLRB 743 (2001).

The record does establish that several case managers have made comments on the performance of fellow case managers who were recently hired. It does not appear that every case manager is asked to perform this task. The record also fails to show any action by case managers in the evaluation process other than making comments regarding performance. The Employer failed to establish how the case managers impact on the probationary employees' employment. Even if one to assume, however, that the input of some case managers may be considered with respect to the job performance of the probationary, there is no record evidence that any such discussion has or will lead to automatic employment consequences. In this regard, it is well settled that merely participating or assisting in an evaluation process or procedure does not confer supervisory status on the evaluator. *Elmhurst Extended Care Facilities*, 329 NLRB 535 (1999); *Harborside Healthcare, Inc.*, 330 NLRB 1334, 1335 (2000).

As regards the issue of whether case managers have the authority to responsibly direct others, I cannot find that the Employer has met its burden of proof. The Employer argues that case managers are vested with the authority to ensure that the hospital employees adhere to an "economical" plan of care. As such, their duties include directing physicians and other employees to adhere to the hospital policy on length of stay. As discussed previously with respect to the interaction with doctors, the record reflects nothing more than conversations in

which the case manager makes suggestions. If their suggestions are not followed, the matter is referred to management to resolve. As with every supervisory criteria, such direction of work must be done with independent judgment before it is found to be supervisory under Section 2(11) of the Act. Thus, the Board has distinguished between routine direction or assignment of work and that which requires the use of independent judgment. See *Providence Hospital*, 320 NLRB 717, 727 (1996); *Dynamic Science, Inc.*, 334 NLRB No. 56 (2001). The Board has held that only supervisory personnel vested with genuine management prerogatives should be considered supervisors, not straw bosses, lead men, setup men and other minor supervisory employees.

For all of the foregoing, I cannot conclude that case managers exercise any of the supervisory indicia set forth in Section 2(11).

Unit Placement of Case Managers

The Board has dealt with the issue of the placement of case managers and similar employees who hold registered nurse licenses in the registered nurses unit in several cases. In determining whether to include utilization review/discharge planning RNs in an RN unit, the Board has relied on whether the employer requires RN licensure for the position. Although the Board has not included all RNs in a hospital RN unit regardless of function, the Board generally has included in RN units those classifications that perform utilization review/discharge planning work where an employer requires or effectively requires RN licensing for the job. *Pocono Medical Center*, *supra*; *Middletown Hospital Assn.*, 282 NLRB 541, 578 (1986); *Frederick Memorial Hospital*, 254

NLRB 36 (1981); and *Trustees of Noble Hospital*, supra. In cases where utilization review/discharge planners were not required by the employer to be RNs, the Board has excluded them from the RN unit. *Charter Hospital*, 313 NLRB 951, 954 (1994); *Ralph K. Davies Medical Center*, 256 NLRB 1113, 1117 (1981); and *Addison-Gilbert Hospital*, 253 NLRB 1010, 1011–1012 (1981). For where RN licensing is not a job requirement, it must be concluded that RN education and training is not necessary to perform the job's functions. Thus, the Board, on a case-by-case basis, consistently and repeatedly has determined unit placement of utilization review/discharge planners based on the requirement of an RN license. In this case each case manager is required to hold a license as a registered nurse and thus, it is appropriate for case managers to vote as to their inclusion in the nurses unit.

Accordingly, the following constitutes a unit appropriate for collective bargaining:

Included: All full-time and regular part-time case managers employed by the Employer.

Excluded: All other employees and guards and supervisors as defined in the Act.

If a majority of the valid ballots in the election are cast for the Petitioner, the employees will be deemed to have indicated their desire to be included in the existing unit of registered nurses currently represented by the Petitioner, and it may bargain for those employees as part of that unit. If a majority of the valid ballots are cast against representation, the employees will be deemed to have indicated their desire to remain unrepresented, and I will issue a certification of results to that effect.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the Regional Director, Region 2, among the employees in the unit found appropriate at the time² and place set forth in the notice of election³ to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit were employed during the payroll period ending immediately preceding the date of the Decision, including employees who did not work during that period because they were ill, on vacation or temporarily laid off. Employees engaged in any economic strike who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike and who retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Those in the military services of the United States who are in the unit may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the

² Pursuant to Section 101.21 (d) of the Board's Statements of Procedure, absent a waiver, an election will normally be scheduled for a date or dates between the 25th and 30th day after the date of this decision.

³ The Board has adopted a rule requiring that election notices be posted by an employer "at least 3 full working days prior to 12:01 a.m. of the day of the election." Section 103.20(a) of the Board's Rules. In addition, the Board has held that Section 103.20 (c) of the Board's Rules requires that an employer notify the Regional Office at least five full working days prior to 12:01 a.m. of the day of the election, if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB No. 52 (1995).

election date and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.⁴ Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by the New York State Nurses Association, AFL-CIO.⁵

Dated at New York, New York,
June 24, 2004

(s) _____
/s/ Celeste J. Mattina
Regional Director, Region 2
National Labor Relations Board
26 Federal Plaza, Room 3614
New York, New York 10278

Code: 177-2401-6700
460-5033-7500
420-8400
440-1780-6000

⁴ In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *North Macon Health Care Facility*, 315 NLRB 359 (1994); *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman Gordon Company*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that within seven days of the date of this Decision, three copies of an election eligibility list, containing the full names and addresses of all eligible voters, shall be filed by the Employer with the Regional Director, Region 2, who shall make the list available to all parties to the election. In order to be timely filed, such list must be received in the Regional Office at the address below, on or before **July 1, 2004**. No extension of time to file this list may be granted, nor shall the filing of a request for review operate to stay the filing of such list, except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

⁵ Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th, NW, Washington, D.C. 20570-0001. This request must be received by the Board in Washington by no later than **July 8, 2004**.

